Remarks

Claims 1, 3-10 and 21 are pending in the present application. Claims 1 and 21 are

1.) Rejections for Obviousness under 35 USC §103:

a.) Claims 1 and 21:

The Examiner has rejected Claims 1 and 21 as being obvious over US Patent 6,509,841 (Colton) in view of US Patent 5,963,551 (Minko). Specifically, the Examiner states that Colton teaches "receiving ordered data signals from the meter" while Minko teaches "analyzing the data signals to detect a missing signal" and "compensating for the missing signal by adding a predetermined value to a sequence counter". The Examiner further states that "calculating a temporary variable based on a present data signal and a previous data signal" is not explicitly disclosed by Minko, but that it would be obvious to one of ordinary skill in the art to calculate a temporary variable equal to the difference between the current and previous packet index. The Examiner concludes that it would be obvious to one of ordinary skill in the art to combine Colton with Minko.

In response, Applicant has amended Claims 1 and 21 to further claim a "2-bit binary" temporary variable that is based on a present data signal and a previous data signal in the sequence of ordered data signals. Support for this amendment is found in Paragraph 0052 of the present application.

Minko Does Not Teach Calculation of a Temporary 2-bit Binary Variable

Applicant notes that Minko does not teach, disclose or suggest the calculation of a temporary 2-bit binary variable to indicate an error in a data signal as claimed. Instead, Minko only teaches determining whether the difference between the previous and current packet index is greater than one. *Column 7, Lines 4-15.* This technique is more indicative of the setting of a flag rather that the creation of a variable. In other words, it is merely a check to see if a condition has taken place. The only other check that is done by Minko involves a check to see if the index difference is greater than half of the index span which is 256. This would involve determining a value of up to 128. *Column 7,*

Lines 15-19. The results of both checks are not suitable for representation with a 2-bit binary value. The first check is a single binary value (e.g., whether the difference is greater than one) while the second check is a value up to 128 which cannot be represented by only 2 bits. Consequently, the rejection fails for at least these reasons.

Applicant Request Affidavit Regarding Use of Temporary Variable

Applicant further notes that 37 C.F.R. §1.104(d)(2) states:

> **When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.**

In accordance with this rule, Applicant requests that the Examiner submit an affidavit stating that based on her personal knowledge, it is well known to one of ordinary skill in the art to calculate a temporary 2-bit binary value of the previous data signal from the binary value of the present data signal in order to detect a data signal error. In the alternative, Applicant requests that this rejection be withdrawn.

b.) Claims 3-10:

The Examiner has rejected Claims 3-10 as being obvious over Colton in view of Minko and various other references. Since Claims 3-10 are dependent from independent Claim 1, this rejection is overcome for at least the reasons mentioned previously in Section 1.a.

2.) Conclusion:

In view of the preceding remarks, all of the outstanding rejections have been overcome. A notice of allowance for all pending claims is respectfully requested. Please apply any additional fees or credits to Deposit Account #: 50-0954, Reference #: N2215-63142.

Respectfully Submitted,

/davidmixon/ 10/29/2008
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